IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1567 OF 2004
IN
APPEAL FROM ORDER NO.1101 OF 2004

Anand Nilkant Sabnis & anr. ...Applicants
vs.
Rajendra Satish Sabnis ...Respondent

Mr.Uday Warunjikar for the Applicant
Mr.Yogesh Thakur for the Respondent

CORAM: A.S.OKA,J.
DATE : MAY 6,2005.

P.C.:

1. The Application is by the Appellants. In this Appeal from Order the challenge is to the order dated 24th September 2004. The dispute is regarding shop premises in which business was being conducted. The learned Trial Judge by the impugned order directed that the suit premises will remain with the Court Receiver. The learned Trial Judge held that the evidence will have to be led to determine which party was in possession. Appeal from Order is filed by the original Defendants. Appeal has been admitted.

2. The learned Counsel for the Applicant submitted that the Applicant No.1 is physically handicapped person. He submitted that the Respondent is the nephew of Appellant No.1 and he was only helping the Appellant No.1 in his business.

3. The learned Counsel for the Respondent submitted that it was the Respondent who was all along carrying on business and the Applicant No.1 was not concerned with the business.

4. The result of the impugned order is that the suit premises which are business premises will remain sealed in the custody of the Court Receiver. The net result of this order is that both the parties will be sufferers and the property will not fetch any income.

5. In my view, the parties to the suit will have to be permitted to offer bids and the Court Receiver will appoint the party offering highest bid as agent of the Court Receiver.

6. Hence Civil Application is disposed of by passing the following order :

i) The Court Receiver, High Court, Bombay will permit the parties to this Appeal to offer their bids and will appoint the highest bidder as an agent of the Court Receiver subject to execution of usual agency agreement and subject to payment of usual charges of the Court Receiver.

ii) The Court Receiver will complete the process within six weeks from today.

iii) The agent appointed by the Court Receiver will continue to act as an agent of the Court Receiver till the final disposal of the Appeal.

. The Court Receiver and the parties to act upon an authenticated copy of this order.

JUDGE.